

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND  
Legislative Session 2017, Legislative Day No. 11

Bill No. 38-17

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Mr. Wade Kach, Councilman

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By the County Council, June 5, 2017

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A BILL  
ENTITLED

AN ACT concerning

Solar Facilities

FOR the purpose of permitting a Solar Facility to be located in certain zones of the County by special exception; defining terms; providing for the requirements for a facility; providing for a required security; providing for the maintenance, abandonment, and removal of a facility; authorizing the Code Official to enforce the provisions of this Act; providing exceptions; providing for the application of the Act; and generally relating to Solar Facilities.

BY adding  
Article 4E – Solar Facilities  
Sections 4E-101 to 4E-107  
Baltimore County Zoning Regulations, as amended

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter stricken from existing law.  
~~Strike out~~ indicates matter stricken from bill.  
Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments  
Article 5 – Administration and Enforcement  
Section 502.1.I.  
Baltimore County Zoning Regulations, as amended

WHEREAS, solar energy is recognized as an abundant, renewable, and environmentally sustainable source of electricity generation that will lead to greater local grid resiliency and security, as well as produce clean, renewable energy and reduce air and water pollution caused by the burning of traditional fossil fuels, and will thereby reduce greenhouse gases that cause climate change; and

WHEREAS, Baltimore County law does not currently regulate solar facilities or any form of commercial enterprise that places solar energy systems or solar collector panels on a parcel of land for the purpose of generating photovoltaic power; and

WHEREAS, the Baltimore County Master Plan 2020 recognizes that the rural portion of the County provides high quality drinking water, agricultural products, timber, scenic open space, wildlife habitat, fisheries, recreation, water sports, and cultural and historic resources; and

WHEREAS, Baltimore County's Rural Land Management Areas are designed to protect resources and rural economies while permitting limited development; and

WHEREAS, the benefits of solar energy production and location must be balanced with the potential impact of solar energy-producing facilities upon the County's land use policies, particularly in resource conservation zones, as well as in business and manufacturing zones; and

WHEREAS, the County Council believes that Solar Facilities should be permitted in some parts of the County's rural and commercial areas so long as sufficient safeguards are provided to protect the County's communities and its agricultural land, forests, waterways and other natural resources; now, therefore

1           SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE  
2 COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:

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4                                   ARTICLE 4E  
5                                   SOLAR FACILITIES

6 §4E-101. DEFINITION.

7           (A) AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE  
8 MEANINGS INDICATED.

9           (B) “SOLAR FACILITY” MEANS A FACILITY THAT INCLUDES A SERIES OF  
10 ONE OR MORE SOLAR COLLECTOR PANELS OR SOLAR ENERGY SYSTEMS THAT  
11 ARE PLACED IN AN AREA ON A TRACT OF LAND FOR THE PURPOSE OF  
12 GENERATING PHOTOVOLTAIC POWER FOR COMMERCIAL USE. THE TERM  
13 INCLUDES A SOLAR POWER PLANT OR SOLAR PHOTOVOLTAIC FARM.  
14 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SOLAR FACILITY MAY  
15 NOT BE CONSIDERED A PUBLIC UTILITY UNDER THE BALTIMORE COUNTY CODE  
16 OR THE BALTIMORE COUNTY ZONING REGULATIONS.

17           (C) “COMMERCIAL USE” MEANS THE TRANSFER TO THE ELECTRICAL  
18 POWER GRID OF ENERGY PRODUCED BY A SOLAR FACILITY FOR ENERGY CREDITS  
19 TO CONSUMERS.

20  
21 §4E-102. LOCATION OF SOLAR FACILITIES.

22           A SOLAR FACILITY IS PERMITTED ONLY BY SPECIAL EXCEPTION IN THE

R.C.2, R.C.3, R.C.4, R.C.5, R.C.6, B.L., B.M., M.R., M.L.R., AND M.H. ZONES OF THE  
COUNTY.

§4E-103. EXCEPTION.

THIS ARTICLE DOES NOT APPLY TO:

1. A SOLAR FACILITY LOCATED IN A YARD AREA, BUILDING, OR  
STRUCTURE THAT IS ACCESSORY TO A PRINCIPAL RESIDENTIAL,  
AGRICULTURAL, COMMERCIAL OR INSTITUTIONAL USE; OR

2. A SOLAR FACILITY ON FEDERAL, STATE OR LOCAL  
GOVERNMENT-OWNED OR LEASED LAND THAT PRODUCES ENERGY FOR  
GOVERNMENT USE.

§4E-104. REQUIREMENTS.

A. A SOLAR FACILITY LOCATED IN AN R.C. ZONE IS SUBJECT TO THE  
FOLLOWING REQUIREMENTS:

1. ON LAND ZONED R.C.2:

A. THE MAXIMUM SIZE OF A SOLAR FACILITY IS 25% OF THE TOTAL  
PARCEL ON WHICH A SOLAR FACILITY IS PROPOSED TO BE LOCATED; AND

B. A PROPOSED SOLAR FACILITY MAY PRODUCE UP TO 200% OF  
THE AVERAGE YEARLY ENERGY REQUIRED FOR THE LAST THREE YEARS FOR A  
COMMERCIAL AGRICULTURAL OPERATION.

2. ON LAND ZONED R.C.3, R.C.4, R.C.5, AND R.C.6:

A. A PROPOSED SOLAR FACILITY SHALL COUNT AS ONE EASEMENT

1 AND BE PART OF THE MARYLAND COMMUNITY SOLAR PROGRAM;

2 B. THE MAXIMUM NUMBER OF SOLAR FACILITIES PERMITTED  
3 SHALL BE LIMITED TO TWO IN EACH COUNCILMANIC DISTRICT;

4 C. A PROPOSED SOLAR FACILITY SHALL PRODUCE NO MORE THAN  
5 2 MW; AND

6 D. BEFORE A PROPOSED SOLAR FACILITY CAN BE APPROVED, EACH  
7 RESIDENTIALLY USED PROPERTY WITHIN 1,000 FEET AND WITH A VIEW OF THE  
8 PROPOSED SOLAR FACILITY SHALL GIVE WRITTEN APPROVAL.

9 3. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED  
10 SHALL NOT BE ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT  
11 OR AN ENVIRONMENTAL PRESERVATION EASEMENT.

12 4. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE  
13 LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A PROPERTY  
14 THAT IS LISTED ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.

15 5. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED  
16 SHALL NOT BE LOCATED IN A FOREST CONSERVATION EASEMENT, A FOREST AS  
17 DEFINED IN SECTION 33-6-101(O) OF THE COUNTY CODE, OR A DESIGNATED  
18 CONSERVANCY AREA IN AN R.C.4 OR R.C.6 ZONE.

19 6. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE  
20 LOCATED IN THE DESIGNATED COUNTY RURAL LEGACY AREAS.

21 7. ON LAND ZONED R.C.2 AND R.C.6, THE PORTION OF LAND ON WHICH A  
22 SOLAR FACILITY IS PROPOSED SHALL NOT BE PRIME AND PRODUCTIVE  
23 AGRICULTURAL LAND, AS CONTAINED IN THE BALTIMORE COUNTY SOIL

1 SURVEY.

2 8. ABOVEGROUND COMPONENTS OF THE SOLAR FACILITY, INCLUDING  
3 SOLAR COLLECTOR PANELS, INVERTERS, AND SIMILAR EQUIPMENT, MUST BE  
4 SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY, SUBJECT TO  
5 THE FOLLOWING:

6 A. THIS SETBACK DOES NOT APPLY TO THE INSTALLATION OF THE  
7 ASSOCIATED LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES;  
8 AND

9 B. THE ADMINISTRATIVE LAW JUDGE, OR BOARD OF APPEALS ON  
10 APPEAL, MAY INCREASE THE SETBACK BASED ON THE IMPACT OF THE  
11 STRUCTURES ON ADJACENT OR SURROUNDING RESIDENTIALLY USED  
12 PROPERTIES, AND MAY DECREASE THE SETBACK IF LOCATED NEAR A FOREST  
13 OR OTHER SUFFICIENT BUFFER.

14 9. A STRUCTURE SHALL NOT EXCEED 16 FEET IN HEIGHT.

15 10. A LANDSCAPING BUFFER SHALL BE PROVIDED AROUND THE  
16 PERIMETER OF ANY PORTION OF A SOLAR FACILITY THAT IS VISABLE FROM AN  
17 ADJACENT RESIDENTIALLY USED PROPERTY OR A PUBLIC STREET. SCREENING  
18 OF STATE AND LOCAL SCENIC ROUTES AND SCENIC VIEWS IS REQUIRED IN  
19 ACCORDANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL.

20 11. SECURITY FENCING SHALL BE PROVIDED BETWEEN THE  
21 LANDSCAPING BUFFER AND THE SOLAR FACILITY.

22 12. A SOLAR COLLECTOR PANEL OR COMBINATION OF SOLAR  
23 COLLECTOR PANELS SHALL BE LANDSCAPED TO MINIMIZE THE GLARE OR

1 REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS, AND TO  
2 NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.

3 13. A PETITIONER SHALL COMPLY WITH THE PLAN REQUIREMENTS OF  
4 SECTION 33-3-108 OF THE COUNTY CODE, AND SHALL INCLUDE ADEQUATE  
5 BUFFERS TO PROTECT NATURAL STREAMS AND WATERWAYS FROM  
6 DEGRADATION OF AQUATIC WILDLIFE AS A RESULT OF STORMWATER RUNOFF.

7 14. AT LEAST 60 DAYS PRIOR TO THE PUBLIC HEARING ON THE SPECIAL  
8 EXCEPTION, THE PETITIONER SHALL SEND NOTICE VIA CERTIFIED MAIL, RETURN  
9 RECEIPT REQUESTED, TO ADJOINING PROPERTY OWNERS AND COMMUNITY  
10 ASSOCIATIONS OF THE ADDRESS OF THE PROPERTY UNDER PETITION OR, IF NOT  
11 AVAILABLE, A DESCRIPTION OF THE PROPERTY, THE ACTION REQUESTED BY  
12 THE PETITION, AND THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.

13 15. IN GRANTING A SPECIAL EXCEPTION, THE ADMINISTRATIVE LAW  
14 JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY IMPOSE CONDITIONS OR  
15 RESTRICTIONS ON THE SOLAR FACILITY USE AS NECESSARY TO PROTECT THE  
16 ENVIRONMENT AND SCENIC VIEWS, AND TO LESSEN THE POTENTIAL IMPACT OF  
17 THE FACILITY ON THE HEALTH, SAFETY, AND GENERAL WELFARE OF  
18 SURROUNDING RESIDENTIALLY USED PROPERTIES AND COMMUNITIES.

19 B. THE REQUIREMENTS OF SUBPARAGRAPHS A.8, A.9, A.10, A.11, AND A.12. OF  
20 THIS SECTION SHALL APPLY TO A SOLAR FACILITY LOCATED IN A BUSINESS OR  
21 MANUFACTURING ZONE.

1   § 4E-105. SECURITY BOND.

2   A. AN APPLICANT FOR A BUILDING PERMIT FOR A SOLAR FACILITY SHALL  
3   PROVIDE A SECURITY BOND IN THE FORM AND AMOUNT DETERMINED BY THE  
4   COUNTY ADMINISTRATIVE OFFICER.

5   B. THE CODE OFFICIAL MAY USE THE BOND TO PROCURE THE REPAIR OF ANY  
6   UNSAFE OR HAZARDOUS CONDITIONS UNDER SECTION 4E-106 OR REMOVAL OF A  
7   SOLAR FACILITY UNDER SECTION 4E-107, IN ACCORDANCE WITH SECTION 3-6-402  
8   OF THE COUNTY CODE.

9  
10   §4E-106. MAINTENANCE.

11   A. ALL PARTIES HAVING A LEASE OR OWNERSHIP INTEREST IN A SOLAR  
12   FACILITY ARE RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITY.

13   B. MAINTENANCE SHALL INCLUDE PAINTING, STRUCTURAL REPAIRS,  
14   LANDSCAPE BUFFERS AND VEGETATION UNDER AND AROUND SOLAR PANEL  
15   STRUCTURES, AND INTEGRITY OF SECURITY MEASURES. ACCESS TO THE  
16   FACILITY SHALL BE MAINTAINED IN A MANNER ACCEPTABLE TO THE FIRE  
17   DEPARTMENT. THE OWNER, OPERATOR, OR LESSEE ARE RESPONSIBLE FOR THE  
18   COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.

19   C. A LAND MAINTENANCE PLAN SHALL BE PROVIDED BY AN APPLICANT FOR A  
20   BUILDING PERMIT OR PROPERTY OWNER USING BEST LONG-TERM SITE  
21   MANAGEMENT PRACTICES, AND SHALL BE IMPLEMENTED UPON ACCEPTANCE.  
22   THE USE OF TOXIC CHEMICALS, SUCH AS GLYPHOSATE, AS AN HERBICIDE TO  
23   CONTROL WEEDS AND OTHER UNWANTED VEGETATION UNDER AND AROUND



1 SOLAR PANEL STRUCTURES IS PROHIBITED.

2 D. THE TRACT ON WHICH A SOLAR FACILITY IS LOCATED MAY BE USED FOR  
3 ACCESSORY AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK,  
4 APICULTURE, AND SIMILAR USES.

5 E. THE PROVISIONS ON THIS SECTION SHALL BE ENFORCED IN ACCORDANCE  
6 WITH ARTICLE 3, TITLE 6 OF THE COUNTY CODE.

7  
8 §4E-107. ABANDONMENT; REMOVAL.

9 A. A SOLAR FACILITY THAT HAS REACHED THE END OF ITS USEFUL LIFE OR HAS  
10 BEEN ABANDONED SHALL BE REMOVED. THE PROPERTY OWNER OR OPERATOR  
11 OF THE FACILITY SHALL PHYSICALLY REMOVE THE INSTALLATION NO MORE  
12 THAN 150 DAYS AFTER THE DATE OF DISCONTINUED OPERATIONS. THE OWNER  
13 OR OPERATOR SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL OF THE  
14 PROPOSED DATE OF DISCONTINUED OPERATIONS AND PLANS FOR REMOVAL.

15 B. REMOVAL SHALL CONSIST OF THE:

16 1. PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS, STRUCTURES,  
17 EQUIPMENT, SECURITY BARRIERS AND TRANSMISSION LINES FROM THE SITE;

18 2. DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE  
19 WITH LOCAL, STATE, AND FEDERAL WASTE DISPOSAL REGULATIONS; AND

20 3. STABILIZATION OR RE-VEGETATION OF THE SITE AS NECESSARY TO  
21 MINIMIZE EROSION.

22 C. IF THE OWNER OR OPERATOR FAIL TO REMOVE THE FACILITY WITHIN 150  
23 DAYS OF ABANDONMENT, THE COUNTY RETAINS THE RIGHT TO ENTER AND

1 REMOVE THE FACILITY. AS A CONDITION OF SPECIAL EXCEPTION APPROVAL,  
2 THE PETITIONER AND LANDOWNER AGREE TO ALLOW ENTRY TO REMOVE AN  
3 ABANDONED FACILITY.

4 D. THE CODE OFFICIAL MAY ISSUE A CITATION TO THE OWNER OR OPERATOR  
5 FOR REMOVAL OF A SOLAR FACILITY IF:

6 1. THE CODE OFFICIAL DETERMINES THAT THE SOLAR FACILITY HAS NOT  
7 BEEN IN ACTUAL AND CONTINUOUS USE FOR 12 CONSECUTIVE MONTHS;

8 2. THE OWNER OR OPERATOR FAILED TO CORRECT AN UNSAFE OR  
9 HAZARDOUS CONDITION OR FAILED TO MAINTAIN THE SOLAR FACILITY UNDER  
10 SECTION 4E-106 WITHIN THE TIME PRESCRIBED IN A CORRECTION NOTICE  
11 ISSUED BY THE CODE OFFICIAL; OR

12 3. THE OWNER OR OPERATOR HAS FAILED TO REMOVE THE SOLAR  
13 FACILITY IN ACCORDANCE WITH PARAGRAPH C.

14  
15 §502.1. Conditions Determining Granting of Special Exception.

16 Before any special exception may be granted, it must appear that the use for which the special  
17 exception is requested will not:

18 I. Be detrimental to the environment and natural resources of the site and vicinity including  
19 forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5, or R.C.7 Zone,  
20 AND FOR CONSIDERATION OF A SOLAR FACILITY USE UNDER ARTICLE 4E, THE  
21 INCLUSION OF THE R.C.3 AND R.C.6 ZONE.

22  
23 SECTION 2. AND BE IT FURTHER ENACTED, that the Maryland General Assembly

1 is urged to consider legislation to authorize Baltimore County to exempt solar facility equipment  
2 located as an accessory use on buildings or parking facilities from personal property taxation.  
3

4       SECTION 3. AND BE IT FURTHER ENACTED, that the County Council shall establish  
5 by Resolution a Commission consisting of one person appointed by each Councilmember, and  
6 members from the Departments of Planning and Environmental Protection and Sustainability, with  
7 participation of the Baltimore County Farm Bureau, the Baltimore County Commission on  
8 Environmental Quality, the solar industry, and the Sierra Club's Greater Baltimore Group, and  
9 shall by October 31, 2017 submit recommendations regarding changes to current laws, incentives  
10 for solar development under transmission lines before croplable farmland, an allocation regarding  
11 a percentage of the solar energy generated on each large-scale solar project to go to community  
12 solar use for the benefit of low income residents, and an examination of the economic and  
13 environmental best practices from other states as to balancing agricultural land use with solar  
14 facilities.  
15

16       SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by  
17 the affirmative vote of five members of the County Council, shall take effect on July 17, 2017 and  
18 shall apply retroactively to any zoning petition filed after October 18, 2016, except that the  
19 requirements of subparagraphs A.1, A.2, A.3, A.6, A.8, A.9, A.10, A.11, A.12, and A.13 of Section  
20 4E-104 shall apply retroactively to any zoning petition filed after July 1, 2016. This Act shall  
21 expire on January 31, 2018 without the necessity of further action by the County Council.